

<b>Application Number</b> 	Application/Control No. 10/717,944	Applicant(s)/Patent under Reexamination O'MALLEY ET AL.
Document Code - DISQ		Internal Document – DO NOT MAIL

<b>TERMINAL DISCLAIMER</b>	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Date Filed : August 23, 2005	This patent is subject to a Terminal Disclaimer	

**Approved/Disapproved by:**

Henry D Jefferson

**T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT**

DATE: 23-Aug-05  
TO: EXAMINER SMITH, CREIGHTON H.  
FROM: Jefferson, Henry  
PARALEGAL SPECIALIST

APPL. S.N.: 10/717,944  
ART UNIT: 2645

RETURN THIS MEMO TO:

Case Drop-Off Locatice  
**JEF-2D68**

SUBJECT: Decision on Terminal Disclaimer (T.D.) filed: 27-Jul-05

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next Office action to notify applicant of the T.D. If you disagree or have any questions, please see me or the Special Program Examiner. THIS IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE (1) MAILED TO APPLICANT OR (2) PLACED OF RECORD IN THE APPLICATION FILE. When your action is complete, please initial, date and return this memo to me. THANK YOU.

The T.D. is PROPER and has been recorded (see ¶14.23).

The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see ¶ 14.24):

- The TD fee of   has not been submitted nor is there any authorization in the application file for the use of a deposit account (see ¶ 14.26.07).
- The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent (see ¶¶ 14.26 & 14.26.01).
- The T.D. lacks the enforceable only during common ownership clause – needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see ¶ 14.27.01).
- The T.D. is directed to a particular claim(s), which is not acceptable since “the disclaimer must be for a terminal portion of the term of the entire patent to be granted” (MPEP 1490) (see ¶¶ 14.26 & 14.26.02).
- The person who signed the T.D.:
  - is not an attorney “of record” (see ¶¶ 14.29 and 14.29.01).
  - has failed to state his/her capacity to sign for the business entity (see ¶ 14.28).
  - is not recognized as an officer of the assignee (see ¶¶ 14.29 & possible 14.29.02).
- No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame number may be found in the T.D. or in a separate paper of record in the application (see ¶ 14.30).
- The T.D. is not signed (see ¶¶ 14.26 & 14.26.03).
- The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see ¶ 14.32).
- The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed) is missing or incorrect (see ¶¶ 14.26, 14.27.02 or 14.26.05).
- The period disclaimed is incorrect or not specified (see ¶¶ 14.26, 14.27.02 or 14.26.03).
- Other:
- Suggestion to request refund (see ¶ 14.36). NOTE: If already authorized, credit refund to deposit account and do not check this item.

I have appropriately notified applicant(s) of the status of the Terminal Disclaimer filed in this case.

Ex. Initials: \_\_\_\_\_ Date: \_\_\_\_\_

Log Date:

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:  
O'Malley & Leondires

Serial No.: 10/717,944

Filed: November 20, 2003

For: Audio Conferencing Method

§ CUSTOMER NO. 29855  
§ Confirmation No. 9036  
§ Docket No.: 199-0237US-C  
§ Art Unit: 2645  
§ Examiner:  
Creighton H. Smith

**TERMINAL DISCLAIMER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA, 22313-1450

Pursuant to Rule 3.73(b) and Rule 1.321, I, Terril G. Lewis, represent that I am an authorized attorney of record for the above-referenced application and therefore authorized to act on behalf of the assignee. The Assignee of record for the above-referenced application is Polycom, Inc., as evidenced by the assignment recorded at Reel 014420, Frame 0633, who owns a 100% interest in the above-referenced application.

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The Assignee hereby agrees that any part of the statutory term of any patent granted on the above-referenced application that extends beyond the expiration date of U.S. Patent No. 6,697,476 (the '476 patent), as measured in accordance with 35 U.S.C. §§ 154-56, 173 and with respect to any terminal disclaimer filed with respect to the '476 patent (the "expiration date of the '476 patent"), is hereby disclaimed, except as provided below. It is agreed that any patent granted on the above-referenced application shall be enforceable only for and during such period that any such granted patent is commonly owned with the '476 patent. It is further agreed that this terminal disclaimer applies to any patent granted on the above-referenced application and is binding upon any grantee and/or its successors or assigns.

However, the Assignee does not disclaim any part of the statutory term of any patent granted on the above-referenced application that extends to the expiration date of the '476 patent, in the event that, before the expiration date of the '476 patent, the '476 patent: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321; has all claims canceled by reexamination certificate; or is reissued in any manner.

Respectfully submitted,

Terril G. Lewis  
Patent Attorney of Record for Applicants  
Reg. No. 46,065

Date: 5/31/05